

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1485

**Introduced by Assembly Member Firebaugh
(Principal coauthors: Assembly Members Goldberg and Yee)**

February 21, 2003

An act ~~relating to school accountability~~ *to amend Section 51700 of, and to add Section 60640.1 to, the Education Code, relating to English learners, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1485, as amended, Firebaugh. ~~School accountability~~ *English learners: academic assessment.*

~~Existing~~

(1) ~~Existing~~ law, the English Learner and Immigrant Pupil Federal Conformity Act, requires a local educational agency to provide instructional services to limited-English-proficient pupils and immigrant pupils in conformity with the No Child Left Behind Act of 2001.

This bill would declare the intent of the Legislature to require the State Board of Education to comply fully with federal law and ensure that the educational needs and rights of English learners are addressed fully in the accountability plan submitted by the state to the federal government for purposes of the federal No Child Left Behind Act of 2001.

(2) ~~Existing~~ law establishes the Reading First Plan to provide federally funded reading instruction to pupils in kindergarten and grades 1 to 3, inclusive, and to special education pupils in any grade

of elementary or secondary school. Existing law requires the Reading First Plan submitted to the federal Secretary of Education, among other things, to authorize a local educational agency that meets specified federal requirements to be eligible for federal funding if certain pupils are provided by a prescribed deadline with standards-aligned textbooks or basic instructional materials aligned with the state-adopted reading/language arts content standards.

This bill would prohibit the State Department of Education and the State Board of Education from developing or implementing requirements or criteria that make a local educational agency ineligible for funding because the local educational agency provides primary language instruction and comprehensive English language development instruction to English learners in classrooms where English learners are not educated through sheltered or structured English immersion.

(3) Existing law requires a school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, prescribed statewide achievement tests. Existing law requires pupils of limited English proficiency to take a test in their primary language if a test is available and if fewer than 12 months have elapsed after their initial enrollment in any public school in the state. Existing law authorizes pupils of limited English proficiency, at the option of their school district, to take a second achievement test in their primary language and requires that these tests produce individual pupil scores that are valid and reliable.

This bill would require, commencing on July 1, 2003, the State Department of Education to use specified federal funds for the purpose of developing academic assessments of reading or language arts in the primary languages of limited-English-proficient pupils. The bill would require, commencing on July 1, 2005, a limited-English-proficient pupil who has attended public schools for 3 or more consecutive school years to be administered the academic assessment of reading or language arts in English. The bill would impose a state-mandated local program by requiring, commencing on July 1, 2008, a limited-English-proficient pupil to be assessed in a valid and reliable manner in the language and form most likely to yield accurate data on what he or she knows and can do in academic content areas until he or she achieves English language proficiency, as specified.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.



Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(5) The bill would declare that it is to take effect immediately as an statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to require the
2 State Board of Education to comply fully with federal law and
3 ensure that the educational needs and rights of English learners are
4 addressed fully in the accountability plan submitted by the state to
5 the federal government for purposes of the federal No Child Left
6 Behind Act of 2001.

7 SEC. 2. *Section 51700 of the Education Code is amended to*
8 *read:*

9 51700. (a) There is hereby established the Reading First Plan
10 to provide reading instruction to pupils in kindergarten and grades
11 1 to 3, inclusive, and to special education pupils in kindergarten
12 and grades 1 to 12, inclusive.

13 (b) The plan shall be administered by the State Department of
14 Education and shall be funded from moneys allocated pursuant to
15 Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C.
16 Sec. 6301 et seq.).

17 (c) The Reading First Plan submitted to the Secretary of
18 Education pursuant to Title I of the federal No Child Left Behind
19 Act of 2001 (20 U.S.C. Sec. 6301 et seq.) shall do all of the
20 following:

21 (1) Authorize a local educational agency that meets all the
22 requirements of Section 6362(c)(6) of Title 20 of the United States
23 Code to be eligible for Reading First funding if pupils enrolled in
24 kindergarten or any of grades 1 to 3, inclusive, and special

1 education pupils enrolled in kindergarten or any of grades 1 to 12,
2 inclusive, are provided with standards-aligned textbooks or basic
3 instructional materials aligned with the reading/language arts
4 content standards pursuant to Section 60605 by the beginning of
5 the first school term that commences no later than 24 months after
6 those materials are adopted by the State Board of Education.

7 (2) Authorize a local educational agency to use scientifically
8 based reading research supplemental instructional materials for
9 pupils enrolled in kindergarten or any of grades 1 to 3, inclusive,
10 and special education pupils enrolled in kindergarten or any of
11 grades 1 to 12, inclusive, that are aligned with the
12 reading/language arts content standards adopted pursuant to
13 Section 60605. The local educational agency shall provide an
14 explanation in its application of how its use of these supplemental
15 instructional materials support the reading/language arts
16 instructional materials adopted by the State Board of Education for
17 pupils enrolled in kindergarten or any of grades 1 to 3, inclusive,
18 and special education pupils enrolled in kindergarten or any of
19 grades 1 to 12, inclusive.

20 (3) Authorize an eligible local educational agency to receive a
21 grant in the amount of up to six thousand five hundred dollars
22 (\$6,500) per teacher in kindergarten or in any of grades 1 to 3,
23 inclusive, unless otherwise required pursuant to Section
24 6362(c)(2)(A) of Title 20 of the United States Code. In addition,
25 to the extent that a local educational agency needs additional
26 funding consistent with the maximum amount allowable under the
27 federal No Child Left Behind Act (20 U.S.C. Sec. 6301 et. seq.),
28 authorize the local educational agency to submit a plan justifying
29 that need to the State Department of Education and the Department
30 of Finance for their joint approval. A grant awarded pursuant to
31 this paragraph shall be used to enhance reading instruction,
32 including, but not limited to, the following purposes:

33 (A) Purchasing and implementing scientifically based reading
34 research instructional and supplemental materials in reading
35 language arts, pursuant to requirements specified in the Reading
36 First Plan and paragraph (2).

37 (B) Participating in professional development in reading and
38 language arts, pursuant to requirements specified in the Reading
39 First Plan. A Reading First funded agency may not claim funding
40 for teachers of kindergarten or any of grades 1 to 3, inclusive, or

1 teachers of special education pupils for the Mathematics and
2 Reading Professional Development Program established pursuant
3 to Article 3 (commencing with Section 99230) of Chapter 5 of Part
4 65.

5 (C) Hiring reading coaches or reading content experts, or both.

6 (D) Purchasing reading and language arts assessments.

7 (E) Other purposes, as specified in Section 6362(c)(7) of Title
8 20 of the United States Code.

9 (e) *The State Department of Education and the State Board of*
10 *Education may not develop or implement requirements or criteria*
11 *that make a local educational agency ineligible for funding*
12 *pursuant to this section because the local educational agency*
13 *provides primary language instruction and comprehensive*
14 *English language development instruction to English learners in*
15 *alternative classrooms, as authorized pursuant to Sections 310*
16 *and 311.*

17 (f) A local educational agency shall submit an expenditure plan
18 as part of its Reading First application include details about how
19 it is going to use its funding.

20 SEC. 3. *Section 60640.1 is added to the Education Code, to*
21 *read:*

22 60640.1. (a) *The Legislature recognizes that the federal No*
23 *Child Left Behind Act of 2001 (20 U.D.C. Sec. 6302 et seq.)*
24 *requires that limited-English-proficient pupils be included in the*
25 *statewide pupil assessment program (20 U.S.C. Sec. 6311).*

26 (b) *Commencing on July 1, 2003, the State Department of*
27 *Education shall use funds made available pursuant to Title VI of*
28 *the No Child Left Behind Act of 2001 for the purpose of developing*
29 *academic assessments of reading or language arts in the primary*
30 *languages of limited-English-proficient pupils.*

31 (c) *Notwithstanding Section 60640, commencing on July 1,*
32 *2005, a limited-English-proficient pupil who has attended public*
33 *schools for three or more consecutive school years shall be*
34 *administered the academic assessment of reading or language arts*
35 *in English.*

36 (d) *Notwithstanding Section 60640, commencing on July 1,*
37 *2008, a limited-English-proficient pupil shall be assessed in a*
38 *valid and reliable manner in the language and form most likely to*
39 *yield accurate data on what he or she knows and can do in*

1 *academic content areas until he or she achieves English language*
2 *proficiency as determined pursuant to Sections 313 and 60810.*

3 *SEC. 4. Notwithstanding Section 17610 of the Government*
4 *Code, if the Commission on State Mandates determines that this*
5 *act contains costs mandated by the state, reimbursement to local*
6 *agencies and school districts for those costs shall be made*
7 *pursuant to Part 7 (commencing with Section 17500) of Division*
8 *4 of Title 2 of the Government Code. If the statewide cost of the*
9 *claim for reimbursement does not exceed one million dollars*
10 *(\$1,000,000), reimbursement shall be made from the State*
11 *Mandates Claims Fund.*

12 *SEC. 5. This act is an urgency statute necessary for the*
13 *immediate preservation of the public peace, health, or safety*
14 *within the meaning of Article IV of the Constitution and shall go*
15 *into immediate effect. The facts constituting the necessity are:*

16 *In order for the State Board of Education to submit an*
17 *accountability plan in the spring of 2003 as required for state*
18 *participation in programs authorized pursuant to the No Child Left*
19 *Behind Act of 2001, it is necessary that this act take effect*
20 *immediately.*

